

"INTERN(AL) AFFAIRS": MANAGING UNPAID INTERNSHIPS IN ALBERTA

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With the end of another school year comes the annual insurgence of students and new graduates into the marketplace, all of whom are eager to build their resumes by gaining practical experience in their chosen fields, even if that experience comes in the form of an internship. "Intern" is a word that conjures up the image of a young hopeful feverishly working away at a business in a junior position for little or no pay (except, of course, a wealth of practical experience).

While most employers are aware of their obligations to employees under Alberta's Employment Standards Code (the "Code"), when the phraseology shifts from "employment" to "internship," some employers assume their legal obligations to "interns" differ from their legal obligations to "employees," as evidenced by the [Internship Inspection Blitz Report](#) released by the Ontario Ministry of Labour.

Pay Exceptions

Unpaid internships are impermissible in Alberta unless the internship falls under one of the three narrowly construed exemptions listed in the regulations to the Code:

1. Internships that are part of a formal course of training *approved by the Director of Employment Standards*;
2. Internships that are part of an off-campus education program *approved by a school district's board of trustees*; and
3. Internships that are part of a work experience program *approved by the Minister of Enterprise and Advanced Education or the Minister of Human Services*.

"Interns" that do not fall within these narrow exceptions are entitled to the payment of minimum wage under the Code. Other minimum employment standards, including hours of work, overtime pay, vacation pay, etc., are also applicable.

The mere fact that a worker is called an "intern" is irrelevant to the determination of whether that worker is entitled to the protections of the Code. As the exemptions above clearly indicate, employers cannot unilaterally

designate an individual as an unpaid intern. The prior approval of the Director, a school board, or a Minister is a mandatory prerequisite to any such designation.

Professional Exceptions

Many employment standards, including minimum wage, hours of work, overtime, rest periods, etc. do not apply to professionals, or people training to be professionals, in designated fields such as doctors, lawyers, nurses, engineers, and accountants. Since the *Code* does not normally apply to such professionals, the *Code* also does not apply to such professionals when they are receiving training in their designated field.

Employer Take-Aways

Employers who offer internship programs that are not approved by the Director, a school district, or the appropriate Minister should review their programs and practices to ensure they are meeting their legal obligations under the *Code*. While there is no harm in using the word "intern" or "internship" to describe a temporary, entry level position in such situations, employers should be cognizant of the fact that such labels are meaningless from a legal perspective and such interns are likely entitled to the same *Code* protections as the employer's other employees.

Further, even where an internship is approved, employers should ensure that the arrangement is properly papered between the employer, the approving body, and the intern to cover off respective obligations, including who will be providing Workplace Safety Insurance, if applicable.

As a final note, the regulations regarding internships vary significantly from province to province. As such, if you have operations in other provinces, please see our other articles in our "Intern(al) Affairs" series for a primer on these regulations in other jurisdictions.

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A Cautionary Note

The foregoing provides only an overview and does not constitute legal advice. Readers are cautioned against making any decisions based on this material alone. Rather, specific legal advice should be obtained.

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